IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL
Criminal Revision No. 31 of 2003
(Old No. 1466/1990)

1. M/s Goyal Trading Company through its
   Partner Shushil Kumar, Chowk Bazar, Jawalapur
   District Saharanpur
2. Sushil Kumar
3. Sunil Kumar
4. Smt. Aruna Agarwal
   All partners and M/s Goyal Trading Company
   Chowk Bazar, Jwalapur
   District Saharanpur … Revisionists

Versus

1. Union of India, through Sri Ranjeet Singh
   Income Tax Officer, Haridwar
2. Special Chief Judicial Magistrate
   (Economic Offences) Kanpur … Opp. Parties

Hon'ble M.M.Ghildiyal, J.

This revision is filed against the order dated 28.04.1989 whereby the accused has been summoned by Special Chief Judicial Magistrate (Economic Offences) Kanpur in criminal complaint no. 217 of 1989.

Heard learned counsel for the revisionists, learned A.G.A. and Sri S.K. Posti on behalf of respondents.

The complaint was filed under section 276 DD read with section 278-B of the Income Tax Act, 1961 with the allegations that the revisionists, one partner of the firm M/s Goyal Trading Company accepted the deposit of Rs. 23,000/- in violation of section 269 SS of the Income Tax Act, 1961 from Sri Surendra Kumar of Dhampur District Bijnor and thereby contravened the provision of section 269 SS of Income Tax Act, 1961.

Learned counsel for the petitioners cited the decision of the **Apex Court in the mater of Gendral Finance Co. and another Vs. Assistant Commissioner of Income Tax, 2002 Income Tax Reports 338** in support of the contention that section 276 DD of the Income

Tax Act, 1961 was omitted from the Income Tax Act 1961 w.e.f. April 1, 1989 and even if the offence committed before the omission of the 276 DD the criminal proceedings cannot continued thereafter. The facts of the reported case are similar to the facts of the instant case and, therefore, the principle squarely applies to the instant case and the proceedings against the petitioner cannot, therefore, legally continued.

In view of the above the revision is allowed and the proceedings arising out of criminal case no. 217 of 1989 Union of India Vs. M/s Goyal Trading Company and others in the court of Special Chief Judicial Magistrate (Economic Offences) Kanpur are hereby quashed.

(M.M.Ghildiyal, J.)

March 24, 2004
ASWAL